



RNI.No. MAHBIL/2012/46123

महाराष्ट्र शासन राजपत्र भाग पाच-अ

वर्ष २, अंक ५] गुरुवार ते बुधवार, मार्च २७-एप्रिल २, २०१४/चैत्र ६-१२, शके १९३६ [पृष्ठे ३७, किंमत : रुपये ५.००

प्राधिकृत प्रकाशन

महाराष्ट्र विधानसभेत व महाराष्ट्र विधानपरिषदेत सादर केलेली विधेयके (इंग्रजी अनुवाद).

पुढील विधेयके, दुरुस्त्या इत्यादी असाधारण राजपत्र म्हणून त्यांच्यासमोर दर्शविलेल्या दिनांकांना प्रसिद्ध झालेली आहेत :—

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मंगळवार, डिसेंबर ११, २०१२/अग्रहायण २०, शके १९३४

MAHARASHTRA LEGISLATURE SECRETARIAT

The following Bill which was introduced in the Maharashtra Legislative Council on 11th December 2012 is published under Rule 113 of the Maharashtra Legislative Council Rules :—

L. C. BILL No. XIV OF 2012.

A BILL

further to amend the Mumbai Municipal Corporation Act, the Maharashtra Municipal Corporations Act and the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965.

III of 1888. WHEREAS it is expedient further to amend the Mumbai Municipal
LIX of Corporation Act, the Maharashtra Municipal Corporations Act and the
1949. Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial
Mah. Townships Act, 1965, for the purposes hereinafter appearing ; it is hereby
XL of enacted in the Sixty-third Year of the Republic of India as follows :—
1965.

CHAPTER I

PRELIMINARY.

1. This Act may be called the Maharashtra Municipal Corporations Short title .
and Municipal Councils (Third Amendment) Act, 2012.

CHAPTER II

AMENDMENTS TO THE MUMBAI MUNICIPAL CORPORATION ACT.

Insertion of section 252A in III of 1888. **2.** After section 252 of the Mumbai Municipal Corporation Act (hereinafter, in this Chapter, referred to as “ the Mumbai Corporation Act ”), the following section shall be inserted, namely :—

Obligation of corporation to partake common facility.

“ **252A.** If, a common facility is created by the State Government or by any agency of the State Government, under instructions from the State Government, for processing or disposal of solid waste or treatment or recycling sewage and waste water or bulk supply or treatment of water for drinking purpose, it shall be mandatory for the corporation, if so directed by the State Government, to partake of that facility in accordance with such terms and conditions as may be specified by the State Government, by an order in the *Official Gazette* :

Provided that, the State Government shall, before issuing any direction under this section, give an opportunity to the corporation to make within fifteen days a representation, if any, in this regard. If the corporation fails to represent within fifteen days or, after having represented, the State Government, on considering the representation, is of the opinion that issuing such direction is necessary, the State Government may issue the same. ”.

Insertion of section 478-1AA in III of 1888.

3. After section 478-1A of the Mumbai Corporation Act, the following section shall be inserted, namely :—

Compounding of offence of evasion of octroi.

“ **478-1AA.** (1) The Commissioner or an officer not below the rank of Assistant Commissioner authorised in this regard by the Commissioner, may, by an order, either before or after institution of the proceedings, compound any offence regarding evasion of octroi, punishable under section 478-1A, on payment of an amount equal to ten times the amount of octroi payable in addition to the payment of amount of octroi.

(2) When an offence has been compounded under sub-section (1), no further proceedings shall be taken against the accused person in respect of the offence compounded and any proceedings if already taken, shall stand abated, and the accused person, if in custody, shall be discharged. ”.

CHAPTER III

AMENDMENTS TO THE MAHARASHTRA MUNICIPAL CORPORATIONS ACT.

- LIX of 1949. 4. After section 194 of the Maharashtra Municipal Corporations Act (hereinafter in this Chapter, referred to as “ the Maharashtra Corporations Act”), the following section shall be inserted, namely :—
- Insertion of section 194A in LIX of 1949.
- “ 194A. If, a common facility is created by the State Government or by any agency of the State Government, under instructions from the State Government, for processing or disposal of solid waste or treatment or recycling sewage and waste water or bulk supply or treatment of water for drinking purpose, it shall be mandatory for the Corporation, if so directed by the State Government, to partake of that facility in accordance with such terms and conditions as may be specified by the State Government, by an order in the *Official Gazette* :
- Obligation of Corporation to partake common facility.
- Provided that, the State Government shall, before issuing any direction under this section, give an opportunity to the Corporation to make within fifteen days a representation, if any, in this regard. If the Corporation fails to represent within fifteen days or, after having represented, the State Government, on considering the representation, is of the opinion that issuing such direction is necessary, the State Government may issue the same. ”.
5. In section 398 of the Maharashtra Corporations Act, the words “ or to two hundred and fifty rupees, whichever may be greater ” shall be deleted.
- Amendment of section 398 of LIX of 1949.
6. After section 398 of the Maharashtra Corporations Act, the following section shall be inserted, namely :—
- Insertion of section 398-1A in LIX of 1949.
- “ 398-1A. (1) The Commissioner or an officer not below the rank of Assistant Commissioner authorized in this regard by the Commissioner, may, by an order, either before or after institution of the proceedings, compound any offence regarding evasion of octroi, punishable under section 398, on payment of an amount equal to ten times the amount of octroi payable in addition to the payment of amount of octroi.
- Compounding of offence of evasion of octroi.
- (2) When an offence has been compounded under sub-section (1), no further proceedings shall be taken against the accused person in respect of the offence compounded and any proceedings if already taken, shall stand abated, and the accused person, if in custody, shall be discharged. ”.

महाराष्ट्र शासन राजपत्र, भाग पाच-अ,
गुरुवार-बुधवार, मार्च २७-एप्रिल २, २०१४/चैत्र ६-१२, शके १९३६

CHAPTER IV

AMENDMENT TO THE MAHARASHTRA MUNICIPAL COUNCILS, *NAGAR PANCHAYATS* AND INDUSTRIAL TOWNSHIPS ACT, 1965.

Insertion of
section
219A in
Mah. XL of
1965.

7. After section 219 of the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships Act, 1965, the following section shall be inserted, namely :—

Mah.
XL of
1965.

Obligation
of Council
to partake
common
facility.

“ 219A. If, a common facility is created by the State Government or by any agency of the State Government, under instructions from the State Government, for processing or disposal of solid waste or treatment or recycling sewage and waste water or bulk supply or treatment of water for drinking purpose, it shall be mandatory for the Council, if so directed by the State Government, to partake of that facility in accordance with such terms and conditions as may be specified by the State Government, by an order in the *Official Gazette* :

Provided that, the State Government shall, before issuing any direction under this section, give an opportunity to the Council to make within fifteen days a representation, if any, in this regard. If the Council fails to represent within fifteen days or, after having represented, the State Government, on considering the representation, is of the opinion that issuing such direction is necessary, the State Government may issue the same. ”.

STATEMENT OF OBJECTS AND REASONS

Creating and operationalizing efficient facilities for processing and disposal of Municipal solid waste, treatment and recycling sewage and waste water and bulk supply or treatment of water for drinking purposes is the basic responsibility of the urban local bodies. However, often owing to the paucity of funds or lack of expertise or non-availability of suitable land, it is not possible for some urban local bodies to provide these services to the citizens. In such circumstances, it becomes desirable to explore the feasibility of setting up of common facilities for providing the aforesaid services, which can only be done by the Government or any agency specified by the Government.

2. To enable the State Government to undertake such responsibility, the Government considers it expedient to amend the Mumbai Municipal Corporation Act (III of 1888), the Maharashtra Municipal Corporations Act (LIX of 1949) and the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships Act, 1965 (Mah. XL of 1965) suitably, so as to provide that when a common facility is created by the State Government or by any agency of the State Government, under instructions from the State Government, for processing or disposal of solid waste or treatment or recycling sewage and waste water or bulk supply or treatment of water for drinking purposes, it shall be mandatory for the concerned Corporation or Council, if so directed by the State Government, to partake of that facility in accordance with such terms and conditions as may be specified by the State Government by order in the *Official Gazette*. It is also proposed to give the concerned Corporation or Council, an opportunity to make a representation, before issue of any such direction.

3. Section 478-1A of the Mumbai Municipal Corporation Act (III of 1888) provides for imposing penalty for evasion of payment of octroi which shall not be less than five times but which may extend to ten times the amount of the tax payable. Such penalty can be imposed only on conviction of the person concerned. However, considering the nature of the offence and time period in deciding such cases in the Court, the Government of Maharashtra considers it expedient to provide for compounding of offence of evasion of octroi, on payment of an amount equal to ten times the amount of octroi payable in addition to the payment of amount of octroi, by inserting suitable provisions in the said Act.

Similar provision is also proposed to be made in the Maharashtra Municipal Corporations Act (LIX of 1949).

4. The Bill seeks to achieve the above objectives.

Mumbai,
Dated the 5th December, 2012.

VIDHAN BHAVAN,
Nagpur.
Dated the 11th December, 2012.

PRITHVIRAJ CHAVAN,
Chief Minister.

DR. ANANT KALSE,
Principal Secretary,
Maharashtra Legislative Council.

महाराष्ट्र शासन राजपत्र, भाग पाच-अ,
गुरुवार-बुधवार, मार्च २७-एप्रिल २, २०१४/चैत्र ६-१२, शके १९३६

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मंगळवार, डिसेंबर ११, २०१२/अग्रहायण २०, शके १९३४

MAHARASHTRA LEGISLATURE SECRETARIAT

The following Bill was introduced in the Maharashtra Legislative Assembly on the 11th December, 2012 is published under Rule 117 of the Maharashtra Legislative Assembly Rules :-

L. A. BILL No. XXIX OF 2012.

A BILL

further to amend the Maharashtra Village Panchayats Act.

WHEREAS both Houses of the State Legislature were not in session ;

AND WHEREAS the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action further to amend the Maharashtra Village Panchayats Act, for the purposes hereinafter appearing; and, therefore, promulgated the Maharashtra Village Panchayats (Amendment) Ordinance, 2012, on the 4th October 2012;

III of
1959.
Mah.
Ord. IX
of 2012.

AND WHEREAS it is expedient to replace the said Ordinance by an Act of the State Legislature; it is hereby enacted in the Sixty-third Year of the Republic of India as follows :—

1. (1) This Act may be called the Maharashtra Village Panchayats (Third Amendment) Act, 2012.

Short title
and
commence-
ment.

(2) It shall be deemed to have come into force on the 4th October 2012.

III of 1959. 2. In section 10-1A of the Maharashtra Village Panchayats Act (hereinafter referred to as “the principal Act”), for the existing provisos, the following provisos shall be substituted, namely :—

Amendment
of section
10-1A of III
of 1959.

“Provided that, for the General or by-elections for which the last date of filing of nomination falls on or before the 31st December 2013, in accordance with the election programme declared by the State Election Commission, a person who has applied to the Scrutiny Committee for verification of his Caste Certificate before the date of filing of the nomination papers but who has not received the Validity Certificate on the date of filing of the nomination papers shall submit, alongwith the nomination papers,—

(i) a true copy of the application preferred by him to the Scrutiny Committee for issuance of the Validity Certificate or any other proof of having made such application to the Scrutiny Committee; and

(ii) an undertaking that he shall submit, within a period of six months from the date on which he is declared elected, the Validity Certificate issued by the Scrutiny Committee :

Provided further that, if the person fails to produce the Validity Certificate within a period of six months from the date on which he is declared elected, his election shall be deemed to have been terminated retrospectively and he shall be disqualified for being a member.”.

3. In section 30-1A of the principal Act, for the existing provisos, the following provisos shall be substituted, namely :—

Amendment
of section
30-1A of III
of 1959.

“Provided that, for the elections for the post of *Sarpanch* for which the last date of filing of nomination falls on or before the 31st December 2013, in accordance with the election programme declared, a person who has applied to the Scrutiny Committee for verification of his Caste Certificate before the date of filing of the nomination papers but who has not received the Validity Certificate on the date of filing of the nomination papers shall submit, alongwith the nomination papers,—

(i) a true copy of the application preferred by him to the Scrutiny Committee for issuance of the Validity Certificate or any other proof of having made such application to the Scrutiny Committee; and

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महाराष्ट्र शासन राजपत्र, भाग पाच-अ,
गुरुवार-बुधवार, मार्च २७-एप्रिल २, २०१४/चैत्र ६-१२, शके १९३६

(ii) an undertaking that he shall submit within a period of six months from the date on which he is declared elected, the Validity Certificate issued by the Scrutiny Committee :

Provided further that, if the person fails to produce the Validity Certificate within a period of six months from the date on which he is declared elected, his election shall be deemed to have been terminated retrospectively and he shall be disqualified for being a *Sarpanch*.”.

Repeal of
Mah. Ord.
IX of 2012
and saving.

4. (1) The Maharashtra Village Panchayats (Amendment) Ordinance, 2012, is hereby repealed.

Mah.
Ord. IX
of
2012.

(2) Notwithstanding such repeal, anything done or any action taken (including any notification or order issued) under the principal Act, as amended by the said Ordinance, shall be deemed to have been done, taken or, as the case may be, issued under the principal Act, as amended by this Act.

STATEMENT OF OBJECTS AND REASONS.

Section 10-1A of the Maharashtra Village Panchayats Act (III of 1959) provided that, every person desirous of contesting election to a seat reserved for persons belonging to Scheduled Castes, Scheduled Tribes or, as the case may be, Backward Classes of Citizens, shall submit, alongwith the nomination paper, Caste Certificate issued by the Competent Authority and the Validity Certificate issued by the Scrutiny Committee in accordance with the provisions of the Maharashtra Scheduled Castes, Scheduled Tribes, De-notified Tribes (*Vimukta Jatis*), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000 (Mah. XXIII of 2001).

2. The elections of approximately 10,134 *Gram Panchayats* in the State have been scheduled in the months from September 2012 to December 2013 and the preliminary work for holding those elections had already commenced. Taking into consideration the admission process to various standards and professional courses, the Caste Scrutiny Committees, which were already overburdened, would have to undertake on priority, the work of scrutiny of the applications for the students, which is a continuous process. This would have resulted in difficulties in obtaining the Caste Validity Certificate from the Caste Scrutiny Committees.

3. On receiving the number of representations from the public and prospective candidates that they would be deprived of the opportunity to contest the election for the reserved posts merely because of the non-issuance of the Caste Validity Certificate by the Caste Scrutiny Committee in time, as the Committees were otherwise overburdened with the verification work, the Government considered it expedient to amend the Maharashtra Village Panchayats Act, with a view to allow the persons desirous of contesting election for reserved seats and who had applied to the Caste Scrutiny Committee for obtaining Caste Validity Certificate at the time of filing the nomination, to submit the Caste Validity Certificate within six months from the date on which they were declared elected. Similarly, the Government considered it expedient to amend section 30-1A of the said Act to allow *Sarpanchas* elected against the reserved posts, to submit the Validity Certificate within six months from the date on which, they were declared elected.

4. As both Houses of the State Legislature were not in session and the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action further to amend the Maharashtra Village Panchayats Act (III of 1959), for the purposes aforesaid, the Maharashtra Village Panchayats (Amendment) Ordinance, 2012 (Mah. Ord. IX of 2012), was promulgated by the Governor of Maharashtra on the 4th October 2012.

महाराष्ट्र शासन राजपत्र, भाग पाच-अ,
गुरुवार-बुधवार, मार्च २७-एप्रिल २, २०१४/चैत्र ६-१२, शके १९३६

5. The Bill is intended to replace the said Ordinance by an Act of the State Legislature.

Mumbai,

Dated the 19th November, 2012.

JAYANT PATIL,

Minister for Rural Development.

VIDHAN BHAVAN :

Nagpur

Dated the 11th December, 2012.

DR. ANANT KALSE,

Principal Secretary

Maharashtra Legislative Assembly.

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मंगळवार, डिसेंबर ११, २०१२/अग्रहायण २०, शके १९३४

MAHARASHTRA LEGISLATURE SECRETARIAT

The following Bill was introduced in the Maharashtra Legislative Assembly on the 11th December, 2012 is published under Rule 117 of the Maharashtra Legislative Assembly Rules:—

L. A. BILL No. XXXII OF 2012.

A BILL

*further to amend the Maharashtra Education and Employment
Guarantee (Cess) Act, 1962.*

WHEREAS both Houses of the State Legislature were not in session ;

Mah.
XXVII
of 1962.
Mah.
Ord. XI
of 2012.

AND WHEREAS the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action further to amend the Maharashtra Education and Employment Guarantee (Cess) Act, 1962, for the purposes hereinafter appearing ; and, therefore, promulgated the Maharashtra Education and Employment Guarantee (Cess) (Amendment) Ordinance, 2012, on the 3rd December 2012 ;

महाराष्ट्र शासन राजपत्र, भाग पाच-अ,
गुरुवार-बुधवार, मार्च २७-एप्रिल २, २०१४/चैत्र ६-१२, शके १९३६

AND WHEREAS it is expedient to replace the said Ordinance by an Act of the State Legislature; it is hereby enacted in the Sixty-third Year of the Republic of India as follows :—

Short title
and
commence-
ment.

1. (1) This Act may be called the Maharashtra Education and Employment Guarantee (Cess) (Amendment) Act, 2012.

(2) It shall be deemed to have come into force on the 3rd December 2012.

Amendment
of section 2
of Mah.
XXVII of
1962.

2. In section 2 of the Maharashtra Education and Employment Guarantee (Cess) Act, 1962 (hereinafter referred to as “the principal Act”),—

Mah.
XXVII
of
1962.

(i) in clause (a), proviso shall be deleted ;

(ii) after clause (b), the following clause shall be inserted,

namely :—

“(ba) “capital value” means the capital value of a land or building or part thereof fixed or determined in accordance with the provisions of the relevant municipal law;”.

Amendment
of section 4
of Mah.
XXVII of
1962.

3. In section 4 of the principal Act, for clause (a), the following shall be substituted, namely :—

“(a)(i) with effect from the 1st day of April 1974, a tax on lands and buildings in a municipal area at the rates specified in Schedule A hereto annexed ;

(ii) with effect from the 1st day of April 2010, in case of municipal area of *Brihan Mumbai* Municipal Corporation constituted under the Mumbai Municipal Corporation Act and in case of other municipality with effect from the date on which the capital value of lands or buildings as basis of levy of property tax is adopted by such municipality, a tax on lands and buildings at the rates notified by the Collector, upon receipt of proposal by municipality, by notification in the *Official Gazette*, which may be different for different categories of users of lands or buildings or parts thereof and which shall not be less than 0.01 per cent. and not more than 0.3 per cent. of the capital value of lands or buildings or parts thereof :

III of
1888.

Provided that, for the period of five years from the date on and from which such tax is levied on capital value, the tax shall not exceed,—

(I) in respect of land or building used for residential purposes, two times, and

(II) in respect of land or building used for non-residential purposes, three times,

the amount of tax leviable in respect thereof in the year immediately preceding such date on and from which such tax is levied on capital value :

Provided further that, where the taxes levied in respect of any residential or non-residential building or portion thereof were on the basis of annual letting value arrived at considering the leave and licence charges, by whatever name called, then for the purposes of the first proviso it shall be lawful to ascertain such tax leviable during such immediately preceding year, as if such building or portion thereof were self-occupied :

Provided also that, for the period of five years commencing from such year from which such tax is levied on capital value, the amount of tax leviable in respect of a residential building or residential tenement, having carpet area of 46.45 sq. metre (500 sq. feet) or less, shall not exceed the amount of tax levied and payable in the year immediately preceding the year from which such tax is levied on capital value :

Provided also that, after the year from which such tax is levied on capital value, the tax in respect of any taxable land or building shall be revised after every five years and on each such revision, such amount of tax, shall not in any case exceed forty per cent. of the amount of the tax levied and payable in the year immediately preceding the year of the revision ; ”.

4. In section 5 of the principal Act, in sub-section (1), after the words “annual letting value” the words “or as the case may be, the capital value” shall be inserted.

Amendment
of section 5
of Mah.
XXVII of
1962.

5. In section 6B of the principal Act, for clause (a), the following shall be substituted, namely :—

Amendment
of section 6B
of Mah.
XXVII of
1962.

“(a)(i) with effect from the 1st day of April 1975, a further tax on lands and buildings in a municipal area used or intended to be used for a non-residential purpose at the rates specified in Schedule C hereto annexed ;

III of
1888.

(ii) with effect from the 1st day of April 2010, in case of municipal area of Brihan Mumbai Municipal Corporation constituted under the Mumbai Municipal Corporation Act and in case of other municipality with effect from the date on which the capital value of lands or buildings as basis of levy of property tax is adopted by such municipality, a tax on lands and buildings used or intended to be used for a non-residential purpose at the rates notified by the Collector, upon receipt of proposal by municipality, by notification in the *Official Gazette*, which may be different for different categories of users of lands or buildings or parts thereof and which shall not be less than 0.005 per cent. and not more than 0.10 per cent. of the capital value of lands or buildings or parts thereof :

Provided that, for the period of five years from the date on and from which such tax is levied on capital value, the tax shall not exceed three times the amount of tax leviable in respect thereof in the year immediately preceding such date on and from which such tax is levied on capital value :

Provided further that, where the tax levied in respect of any non-residential building or portion thereof were on the basis of annual letting value arrived at considering the leave and licence charges, by whatever name called, then for the purposes of the first proviso it shall be lawful to ascertain such tax leviable during such immediately preceding year, as if such building or portion thereof were self-occupied :

Provided also that, after the year from which such tax is levied on capital value, the tax in respect of any taxable land or building shall be revised after every five years and on each such revision, such amount of tax, shall not in any case exceed forty per cent. of the amount of the tax levied and payable in the year immediately preceding the year of the revision ; ”.

Amendment
of section 6C
of Mah.
XXVII of
1962.

6. In section 6C of the principal Act, in sub-section (2),—

(i) after the word and letter “Schedule C” the words, brackets, letters and figure “or in sub-clause (ii) of clause (a) of section 6B” shall be inserted;

(ii) after the words “annual letting value”, at both the places where they occur, the words “or as the case may be, the capital value” shall be inserted.

Amendment
of section 6D
of Mah.
XXVII of
1962.

7. In section 6D of the principal Act, after the words “annual letting value” the words “or as the case may be, the capital value” shall be inserted.

Amendment
of section 10
of Mah.
XXVII of
1962.

8. In section 10 of the principal Act, in sub-section (1), for the words “as penalty a sum not exceeding one tenth of the amount of the tax so unpaid” the words “as penalty a sum not exceeding two per cent. per month of the amount of the tax so unpaid” shall be substituted.

Amendment
of section 12
of Mah.
XXVII of
1962.

9. In section 12 of the principal Act, for the portion beginning with the words “the tax is due, such portion thereof ” and ending with the words “annual letting value thereof” the following shall be substituted, namely :—

“the tax is due,—

(i) such portion thereof as bears to the total amount of the tax based on the annual letting value due, the same ratio which the rent annually payable by such occupier bears to the aggregate amount of the annual letting value thereof ; or

(ii) such portion thereof as bears to the total amount of the tax based on the capital value due, the same ratio which the capital value of such portion of the land or building of the occupier bears to the aggregate amount of the tax based on the capital value, in respect of the said land or building.”.

10. In section 13 of the principal Act, in sub-section (2), after the words “such tenement is let” the words “or to the amount of capital value of such tenement occupied by him” shall be inserted.

Amendment
of section 13
of Mah.
XXVII of
1962.

11. For the removal of doubt it is hereby declared that all proceedings in connection with any assessment, re-assessment, levy (including levy of penalty) and collection of any tax levied on the basis of annual letting value relating to any period whatsoever, immediately before the 1st April 2010 in case of municipal area of *Brihan Mumbai* Municipal Corporation constituted under the Mumbai Municipal Corporation Act, and in case of other municipality immediately before the date on which the capital value of lands or buildings as basis of levy of property tax is adopted by such municipality shall, notwithstanding anything contained in this Act, but save as otherwise expressly provided therein, be continued and dealt with under the principal Act as if this Act has not been enacted.

Removal of
Doubt.

12. (1) If any difficulty arises in giving effect to the provisions of the principal Act, as amended by this Act or by reason of anything contained therein or in giving effect to the provisions of the principal Act in respect of the matters contained in this Act, the State Government may, as occasion arises, by order published in the *Official Gazette*, do anything, not inconsistent with the provisions of the principal Act, as amended by this Act, which appears to it to be necessary or expedient for the purpose of removing the difficulty :

Power to
remove
difficulty.

Provided that, no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.

(2) Every order under sub-section (1) shall be laid, as soon as may be, after it is issued, before each House of the State Legislature.

13. (1) The Maharashtra Education and Employment Guarantee (Cess) (Amendment) Ordinance, 2012, is hereby repealed.

Repeal of
Mah. Ord.
XI of 2012
and saving.

(2) Notwithstanding such repeal, anything done or any action taken (including any notification, order or bill issued) under the principal Act, as amended by the said Ordinance, shall be deemed to have been done, taken or issued, as the case may be, under the corresponding provisions of principal Act, as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

Education cess and Employment Guarantee Cess are levied under sections 4 and 6B, respectively, of the Maharashtra Education and Employment Guarantee (Cess) Act, 1962 (Mah. XXVII of 1962). In the municipal area such cess are to be collected by the municipality in the same manner in which property taxes are collected in that area under the relevant municipal law.

2. With a view to bring greater transparency and rationalizing the tax structure, the Municipal Corporations and Municipal Councils have been empowered to levy property taxes on the basis of capital value of the lands and buildings in lieu of the system of levy of property taxes on the basis of annual letting value of the lands and buildings.

The *Brihan Mumbai* Municipal Corporation has adopted capital value as a basis for levy of property tax on lands and buildings with effect from the 1st April 2010, which results in deprivation of power to fix the annual letting value of the lands and buildings since then. In this backdrop, with a view to levy the Education cess and Employment Guarantee Cess also on the basis of capital value of the lands and buildings, the Government considered it expedient to amend the said Act, suitably.

Brihan Mumbai Municipal Corporation has to issue final bills for collection of property taxes from December 2012 onwards. Taking into consideration the establishment cost and stationary charges for recovery of Education cess and Employment Guarantee Cess, it was proposed to amend the said Act with immediate effect so as to enable the *Brihan Mumbai* Municipal Corporation to issue bills for Education cess and Employment Guarantee Cess alongwith the bills for property taxes.

3. As both Houses of the State Legislature were not in session and the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action further to amend the Maharashtra Education and Employment Guarantee (Cess) Act, 1962 (Mah. XXVII of 1962), for the purposes aforesaid, the Maharashtra Education and Employment Guarantee (Cess) (Amendment) Ordinance, 2012 (Mah. Ord. XI of 2012), was promulgated by the Governor of Maharashtra on the 3rd December 2012.

4. The Bill is intended to replace the said Ordinance by an Act of the State Legislature.

Nagpur,
Dated the 5th December 2012.

BALASAHEB THORAT,
Minister for Revenue.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves the following proposals for delegation of legislative power, namely :—

Clause 3.—Under this clause, which seeks to substitute clause (a) of section 4 of the Maharashtra Education and Employment Guarantee (Cess) Act, 1962, power is taken to the Collector to notify the rates of Education Cess, upon receipt of proposal by municipality, by notification in the *Official Gazette*, which shall not be less than 0.01 per cent. and not more than 0.3 per cent. the capital value of lands or buildings or parts thereof, with effect from the 1st day of April 2010 in case of municipal area of *Brihan Mumbai* Municipal Corporation and in case of other municipality with effect from the date on which the capital value of lands or buildings as basis of levy of property tax is adopted by such municipality.

Clause 5.—Under this clause, which seeks to substitute clause (a) of section 6B of the Maharashtra Education and Employment Guarantee (Cess) Act, 1962, power is taken to the Collector, to notify the rates of Employment Guarantee Cess, upon receipt of proposal of by municipality, by notification in the *Official Gazette*, which shall not be less than 0.005 per cent. and not more than 0.10 per cent. of the capital value of lands or buildings or parts thereof, with effect from the 1st day of April 2010 in case of municipal area of *Brihan Mumbai* Municipal Corporation and in case of other municipality with effect from the date on which the capital value of lands or buildings as basis of levy of property tax is adopted by such municipality.

Clause 12.—Under this clause, power is taken to the State Government to remove, by order published in the *Official Gazette*, any difficulty which may arise, in giving effect to the provisions of the principal Act as amended by this Act.

2. The above-mentioned proposals for delegation of legislative power are of a normal character.

महाराष्ट्र शासन राजपत्र, भाग पाच-अ,
गुरुवार-बुधवार, मार्च २७-एप्रिल २, २०१४/चैत्र ६-१२, शके १९३६

FINANCIAL MEMORANDUM

The Bill provides to amend the Maharashtra Education and Employment Guarantee (Cess) Act, 1962 , so as to levy the Education cess and Employment Guarantee Cess on the basis of capital value of the lands and buildings.

There is no provision in the Bill which would involve the recurring or non-recurring expenditure from the Consolidated Fund of the State on its enactment as an Act of the State Legislature.

महाराष्ट्र शासन राजपत्र, भाग पाच-अ,
गुरुवार-बुधवार, मार्च २७-एप्रिल २, २०१४/चैत्र ६-१२, शके १९३६

१९

GOVERNOR'S RECOMMENDATION UNDER ARTICLE 207
OF THE CONSTITUTION OF INDIA

*(Copy of Government of Maharashtra Order, Law and Judiciary
Department)*

In exercise of the power conferred upon him by clause (1) of Article 207 of the Constitution of India, the Governor of Maharashtra is pleased to recommend to the Maharashtra Legislative Assembly, the introduction and consideration of the Maharashtra Education and Employment Guarantee (Cess) (Amendment) Bill, 2012.

VIDHAN BHAVAN :
Nagpur,

Dated the 11 th December 2012

DR. ANANT KALSE,
Principal Secretary,
Maharashtra Legislative Assembly.

MAHARASHTRA LEGISLATURE SECRETARIAT

The following report of the Joint Committee on the Maharashtra Self-financed Schools (Establishment and Regulation) Bill, which was presented to the Maharashtra Legislative Council on the 12th December, 2012 is, in accordance with provisions of sub-rule (4) of Rule 125 of the Maharashtra Legislative Council Rules, published for general information :—

COMPOSITION OF THE JOINT COMMITTEE

ON

L. C. BILL No. VII of 2012

THE MAHARASHTRA SELF-FINANCED SCHOOLS (ESTABLISHMENT AND REGULATION) BILL, 2012 :—

- (1) Shri Rajendra Darda, Minister for School Education-*cum*-Chairman of the Committee.
- (2) Prof. Foujiya Khan, Minister of State for School-Education.
- (3) Shri Sadashiv Patil, M. L. A.
- (4) Shri Madhukar Chavan, M. L. A.

- (5) Smt. Nirmala Gavit, M. L. A.
- (6) Shri Navab Malik, M. L. A.
- (7) Shri Jitendra Aahvad, M. L. A.
- (8) Shri Chandrashekhar Ghule, M. L. A.
- (9) Shri Devendra Fadanvis, M. L. A.
- (10) Shri Mangalprabhat Lodha, M. L. A.
- (11) Shri Subhash Desai, M. L. A.
- (12) Shri Vivek Pandit, M. L. A.
- (13) Shri Shishir Shinde, M. L. A.
- (14) Shri Vivek Patil, M. L. A.
- (15) Shri Jaykumar Gore, M. L. A.
- (16) Shri Vikram Kale, M. L. C.
- (17) Shri Mohan Joshi, M. L. C.
- (18) Dr. Sudhir Tambe, M. L. C.
- (19) Shri Ramnath Mote, M. L. C.
- (20) Dr. Deepak Sawant, M. L. C.
- (21) Shri Vasantrao Khotare, M. L. C.

Maharashtra Legislature Secretariat :

- (1) Dr. Anant Kalse, Principal Secretary.
- (2) Shri Uttamsingh Chavan, Joint Secretary.
- (3) Shri Subhashchandra Mayekar, Deputy Secretary.
- (4) Shri Santosh Paradkar, Under Secretary.

School Education Department :

Shri J. S. Sahariya, Additional Chief Secretary.

Law and Judiciary Department :

- (1) Shri H. B. Patel, Secretary (Legislation).
- (2) Smt. Pushpa Tawde, Joint Secretary.
- (3) Shri S. B. Waghole, Assistant Draftsman-*cum*-Under Secretary.

REPORT OF THE JOINT COMMITTEE

I, the Chairman of the Joint Committee to which L. C. Bill No. VII of 2012—The Maharashtra Self-financed Schools (Establishment and Regulation) Bill, 2012 was referred, having been authorised by the Committee to submit the report on their behalf, present this report alongwith the Bill as amended by the Committee annexed thereto.

This Bill was introduced in the Legislative Council on 17th April, 2012. The motion for referring the said Bill to a Joint Committee of both the Houses, after obtaining concurrence of the Legislative Assembly was adopted by the Legislative Council on 18th April, 2012.

The Committee held in all seven meetings. The first meeting of the Committee was held on 9th May, 2012 to finalise certain preliminary matters. In accordance with the decision taken in the said meeting amendments or suggestions in written form were invited by public through a press note published in newspaper, likewise separate letter was sent to the Members of both Houses regarding the said Bill. Amendments/Suggestions thus received were complied clause by clause. In the meetings held on 12th, 13th, 20th June and 11th October, 2012, the amendments to be made in this Bill were finalised after the clause by clause reading the Bill by considering the amendments received from people as well as from Members. Similarly the draft prepared by the Law and Judiciary Department was taken into consideration alongwith the said amendments on 23rd August 2012 and thereafter, on 11th October 2012. The Committee finalised the said report in the meeting held on 17th October, 2012.

The remarks of the Committee pertaining to the important amendments made in the various clauses of the Bill are given in detail in the following paragraphs :—

Clause 2—This clause defines the terms used in the Bill.

Sub-clause (d).—This sub-clause provides for the definition of the term “existing school” which means a school existing and imparting education on the date of commencement of this Act. In this regard a point was raised that it is necessary to make clear mention of “recognized school” instead of mentioning only school.

Accordingly, the word “recognised” is inserted in sub-clause (d).

In the earlier sub-clause (d) the meaning of “pre-primary school” is the school, where pre-primary school education is imparted.

In the opinion of the committee, it was decided that the new sub-clause (f) amended in which definition of “pre-primary school” should be made as “pre-primary school” means a Nursery, Junior Kinder Garten, Senior Kinder Garten level or any school imparting education upto pre-primary school level for children having age 3 to 6 years by whatever name called and of any medium attached to primary school but does not include a creche where pre-primary school education is imparted.

The definition of “Local authority” is newly inserted as sub-clause (e).

Sub-clause (g).—This sub-clause provides for the definition of “registered company”.

In the opinion of the Committee it was decided that, several private companies may start schools if the word “company” is used in the said Bill and they may implement their own decisions arbitrarily and thereby causing commercialization of education. Hence the Committee recommended to substitute by “Local Authority” the word “company” wherever it occurred in the Bill, and delete the sub-clause (g).

Similarly sub-clause (g) also be deleted.

Committee felt that the word “Local Authority” should be inserted.

Accordingly, wherever necessary, amendment has been made in the said Bill.

The sub-clause (o) provides for the definition of “up-gradation of a school”.

Committee felt that mention of pre-primary school as primary school shall be deleted and also the word “authorized” shall be included in this definition so that unauthorized schools shall remain outside the framework of this Act, also only quality schools shall be incorporated. Therefore, a word “recognized” shall be incorporated in the sub-clause (o).

Accordingly, amendment has been made in the said Act.

While considering *Clause 2*, Committee has noticed that, it is necessary to clear the meaning of Self-financed Schools in the said Act.

Accordingly, the new definition of “Schools” has been incorporated.

Clause 4.—This clause provides for creation of endowment fund. The Committee considered on the point raised by Hon. Leader of Opposition, Legislative Council that, whether the amount specified in the Schedule “C” of the said Act for creation of endowment fund will be sufficient for meeting the liability of closed down schools ?

In the view of this the Committee opined that, the minimum amount of endowment should be minimum rupees Two Lakh for pre-primary or higher primary or secondary school affiliated to primary or school, or for the foundation of higher secondary school in rural areas, as the case may be, minimum rupees Three Lakh for Municipal Councils, Nagar Panchayats or Industrial Townships area minimum rupees Five Lakh for Municipal Corporation areas, minimum rupees Seven Lakh for Mumbai and Mumbai Suburban areas, also minimum rupees Five Lakh for establishment of new primary level higher secondary schools in village Panchayat areas, minimum rupees Ten Lakh for Municipal Councils, Nagar Panchayats or Industrial Townships area, minimum rupees Fifteen Lakh for Municipal Corporation areas, minimum rupees Twenty Lakh for Mumbai and Mumbai Suburban area, and minimum rupees Two Lakh for up-gradation of higher primary, secondary or higher secondary school as the case may be in village Panchayat area, minimum rupees Three Lakh for Municipal Councils, Nagar Panchayats or Industrial Townships areas, minimum rupees Five Lakh for Municipal Corporation area, minimum rupees Seven Lakhs for Mumbai and Mumbai Suburban.

The Appendix “C” has been amended accordingly.

Clause 6.—This clause provides for a procedure of scrutinizing application.

It was decided as per the Committee’s opinion that on the basis of the inspection report received, the scrutiny committee should scrutinize the amenities at the place where the matter is under consideration for establishing a school or such places where the matter is under consideration for up-gradation of the existing school by actually visiting the said place.

Necessary amendment has been made in this clause accordingly.

Clause 8.—This clause provides for communication of decision of the Government regarding acceptance of application before 30th April of every academic year.

It was decided according to the Committee’s opinion that it is necessary to communicate applicant with reasons as to why his application is rejected before the 1st May of that academic year.

This clause has been amended accordingly.

Clause 9.—This clause provides for disciplinary action.

It was decided according to the Committee's opinion that under this Act, errors or lies committed or deliberate delay or negligence in the working of official duties assigned to the officers, the concerned officers should be held liable for the disciplinary action under the provisions of Maharashtra Civil Services (Discipline and Appeal) Rules, 1979 or any other relevant disciplinary rules applicable to such officers.

Accordingly, clause 9 has been amended.

Clause 10.—This clause provides for permission to be granted for academic year.

After contemplating the provisions made in this clause, the Committee noticed that matter of granting permission to schools can be taken into consideration after considering the report submitted by the scrutiny committee.

The aforesaid Sub-clause (2) provides that nothing in Sub-clause (1) or (2) shall apply to the schools established or recognised under provisions of the Right of Children to Free and Compulsory Education Act, 2009. The Committee recommends such mention shall be deleted and wherever its reference may occur be deleted. From this point of view, amendments have been made in clause 10 and other places.

Clause 11.—This clause provides for up-gradation of existing schools.

The committee observed that, since this is a matter of up-gradation any unaided English medium school as well as secondary and the higher secondary schools shall not be included in this clause.

Similarly, the Sub-clause (2) provides for entrance of a Government Officer in the Schools whenever inspection of the schools may be deemed necessary. The Committee recommends that this provision should be limited of the school's working hours.

Necessary amendments have been made accordingly.

Clause 14.—This clause provides for the provisions of this Act to apply to schools outside of the State or India.

The Committee observed that since the provisions of the aforesaid Act are applicable to the schools in the State, a mention to that effect must also be made clearly.

The Committee has been of the opinion that there shall be mention of standardized education instead of the word quality in Sub-clause (3).

This clause has been amended accordingly.

Changes made by the Committee in the other clauses are of minor nature, consequential or in the view of drafting only.

Vidhan Bhavan :

Mumbai,

Dated 17th October, 2012.

SHRI RAJENDRA DARDA,

Chairman.

[Note.—Deletion made by the Joint Committee are shown in square brackets and additions are either under-lined or side lined]

L. C. BILL No. VII OF 2012.

A BILL

to make provisions to establish a new school including provision for up-gradation of existing school on self-financed basis, to make suitable provisions with regard to requirements and norms for establishing such new school or up-gradation of existing school, for creating an endowment fund and to provide for matters connected therewith or incidental thereto.

(As amended by the Joint Committee)

WHEREAS, it is expedient to make provisions for giving permission to establish a new school including permission for up-gradation of the existing school to [primary or] upper-primary or secondary or higher secondary school, as the case may be, on self-financed basis, to make suitable provisions with regard to requirements and norms for establishing such new school, or up-gradation of existing school, for inviting applications therefor, to provide

procedure to scrutinize such applications for creating an endowment fund and to provide for matters connected therewith or incidental thereto ; it is hereby enacted in the Sixty-third Year of the Republic of India as follows :—

Short title,
extent and
commence-
ment.

1. (1) This Act may be called the Maharashtra Self-financed Schools (Establishment and Regulation) Act, 2012.

(2) It extends to the whole of the State of Maharashtra.

(3) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Definitions.

2. (1) In this Act, unless the context otherwise requires,—

(a) “District Education Officer” in relation to primary education means, the District Education Officer (Primary) and in relation to secondary or higher secondary education means, the District Education Officer (Secondary) ;

(b) “Director”,—

(i) in relation to primary education, means the Director of Education (Primary Education) ;

(ii) in relation to secondary or higher secondary education means, the Director of Education (Secondary and Higher Secondary Education) ;

(c) “endowment fund” means the endowment fund created under section 4 ;

(d) “existing school” means a recognised school existing and imparting education on the date of commencement of this Act ;

(e) “local authority” means,—

(i) in relation to educational institution managed by a Zilla Parishad, the Zilla Parishad constituted under the Maharashtra Zilla Parishads and Panchayats Samitis Act, 1961 ; Mah. V of 1962.

(ii) in relation to educational institution managed by the Municipal Corporation, the Municipal Corporation constituted under the Mumbai Municipal Corporation Act or, as the case may be, the Maharashtra Municipal Corporations Act ; III of 1888. LIX of 1949.

(iii) in relation to educational institution managed by the Municipal Council, Nagar Panchayat or, as the case may be, Industrial Township, the Municipal Council, Nagar Panchayat or Industrial Township constituted under the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965 ;

Mah. XL of 1965.

(iv) any other authority treated as local authority under any other law ;

[(e)] (f) “pre-primary school” [means school] means a Nursery, Junior Kinder Garten, Senior Kinder Garten level or any school imparting education upto pre-primary school level for children having age 3 to 6 years, by whatever name called and of any medium attached to primary school, but does not include a creche [wherein pre-primary school education is imparted];

[(f)] (g) “prescribed” means prescribed by rules ;

[(g)] “registered company” means a company registered under the Companies Act, 1956 ;]

(h) “registered society” means a society for charitable purposes registered under the provisions of the Societies Registration Act, 1860 ;

(i) “registered trust” means a public trust for charitable purposes registered under the provisions of the [Bombay] Maharashtra Public Trusts Act [1950] ;

(j) “rules” means rules made under this Act ;

(k) “Schedule” means the Schedule appended to this Act ;

(l) “school” means a pre-primary school, primary school, secondary school, higher secondary school or junior college recognised by the Government and managed by any management and affiliated to any Indian or foreign course or Board on self-financed basis wherein all expenses of the school, for any purpose whatsoever, are to be met with by the management itself ; and neither any grant-in-aid or financial assistance be given from the State Government or from a local authority, nor the State Government or the local authority be liable to meet any liability whatsoever incurred by such management of the school ;

[(L)] (m) “scrutiny committee” means a scrutiny committee constituted under section 6 ;

[(m)] (n) “section” means section of this Act ;

[(n)] (o) “State” means the State of Maharashtra ;

[(o)] (p) “up-gradation of school” means up-gradation of [pre-primary school to primary school,] a recognised primary school to upper-primary school, upper-primary school to secondary school or secondary school to higher secondary school.

(2) Words and expression used in this Act, but not defined herein, and—

(i) defined in the Right of Children to Free and Compulsory Education Act, 2009 or the rules made thereunder shall have the meanings respectively assigned to them in that Act or the rules ; or

(ii) defined in the [Bombay] Maharashtra Primary Education Act [1947] or the Maharashtra Secondary and Higher Secondary Education Boards Act, 1965 or the Maharashtra Educational Institutions (Transfer of Management) Act, 1971 or the Maharashtra Educational Institutions (Management) Act, 1976 or the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977, shall, as the context may require, have the meanings respectively assigned to them in or under these Acts.

[1 of
1956]
21 of
1860.
[Bom]
XXIX
of
1950.

35 of
2009.

[Bom.]
LXI of
1947.

Mah.
XLI of
1965.
Mah.
XLIX of
1971.

Mah.
XIII of
1976.

Mah.
III of
1978.

Application
to establish
new school
or up-
gradation of
existing
school.

3. Any registered trust or a registered society or [a registered company] a local authority desirous of establishing a new school, such as pre-primary or primary or upper-primary or secondary or higher secondary or up-gradation of the existing school to [primary or] upper-primary or secondary or higher secondary, as the case may be, shall submit the application to the concerned Director in the format as provided in Schedule A alongwith the documents as specified in Schedule B, and with such fees as the State Government may by order, specify from time to time ; and such application shall be made before the 30th June of the year previous to the academic year for which permission is applied for :

Provided that, for the academic year 2013-2014, such application shall be made before the 31st January 2013.

Creation of
endowment
fund.

4. (1) Any registered trust or a registered society or [a registered company] a local authority desirous of establishing a new school or up-gradating the existing school shall have to deposit the amount as specified in Schedule C, by way of National Saving Certificate or Fixed Deposit in any Nationalized Bank as security deposit towards creating an endowment fund ; and pledge, such certificate or Fixed Deposit Receipt obtained in the name of the management, with the concerned District Education Officer.

(2) The endowment fund may, with the prior permission of the State Government and subject to the provisions of section 5, be utilized for meeting the liability in the form of legal dues, if any, of the management.

No
financial
assistance
by State
Government
to school
established
on self-
financed
basis.

5. (1) An application, for establishing a new school or for up-gradation of a school anywhere in the State by private management of registered trust or a registered society or [a registered company] a local authority shall, and shall only, be on the condition that such school shall be established, maintained and administered or up-graded on self-financed basis. Subject to the provisions of sub-section (2) of section 12 of the Right of Children to Free and Compulsory Education Act, 2009, all expenses in a school for any purpose whatsoever shall be met with by the management itself ; and neither any grant-in-aid or financial assistance shall be sought from the State Government or from a local authority, nor shall the State Government or the local authority be liable to meet any liability in the form of legal dues whatsoever incurred by such management of the school.

(2) On withdrawal of a permission to run or up-grade a school granted under the provisions of this Act, or where a school is established or up-graded without obtaining such permission, or any school established or up-graded after obtaining a permission under the provisions of this Act, or an existing school [on the date of commencement of this Act,] is closed, for any reason whatsoever, the liabilities in the form of legal dues of a management establishing or up-grading or closing a school, as aforesaid, shall first be met with from the endowment fund created under section 4.

भाग पाच-अ-३२-२.

(३) If the endowment fund falls short of the total liability in the form of legal dues incurred by the management, which has obtained a permission to establish or up-grade a school on self-financed basis, the office bearers and the members holding office for the time being in force of the management of a school, shall be jointly and severally liable to meet such liability in equal proportion :

Provided that, nothing contained in this sub-section shall render any such person liable as aforesaid, if he proves that such liability was incurred without his knowledge or that he exercised all due diligence to prevent incurring such liability.

(४) Notwithstanding anything contained in sub-section (३), where a liability in the form of legal dues has been incurred by the management and it is proved that the liability has been incurred with the consent or connivance of, or is attributable to any neglect on the part of any secretary, manager, or any staff, then such secretary, manager, or staff, shall also be deemed to be liable to meet such liability.

35 of 2009. 6. (1) The State Government shall, [constitute a scrutiny committee] by notification in the Official Gazette, constitute the scrutiny committee for the entire area of the State or different scrutiny committees for different areas of the State as may be specified in such notification, consisting of Chairperson and not less than three other members, for considering and recommending to the State Government the permission to be granted to the applicants for establishing a new school or up-grading an existing school based on inspection report obtained by the scrutiny committee. The report of the scrutiny committee shall, having regard to the norms and standards for school as required under the provisions of the Right of Children to Free and Compulsory Education Act, 2009 and the rules made thereunder, as well as such other norms and standards as may be prescribed, from time to time, the applicant's financial soundness, the extent of assets and its ability to setup the infrastructure of a school, its expertise and experience in the field of education and after the spot inspection, contain reasons for recommending grant of permission or, as the case may be, for rejecting the application seeking permission for establishing a new school or up-grading the school, and shall be submitted to the State Government on or before the 31st October of the year referred to in section 3:

Procedure to scrutinize application.

Provided that, for the academic year 2013-2014, such report of the scrutiny committee shall be submitted to the State Government on or before such date as the State Government may by order, specify.

(2) Before submission of such report to the State Government, the scrutiny committee shall display its report on the State Government Website inviting objections and suggestions so as to reach the Director within fifteen days from the date of public notice in respect thereof given in at least two local newspapers. The report to be submitted by the scrutiny committee, to the State Government under sub-section (1), shall be accompanied with the objections and suggestions, if any, received.

(3) The qualifications and experience of the Chairperson and members, the powers and duties and the procedure to be followed for transacting the business of the scrutiny committees shall be such as may be prescribed.

Grant of
permission.

7. (1) The State Government on receipt of the report of the scrutiny committee, may grant or refuse the permission to establish a new school applied for or to up-grade an existing school.

(2) The decision of the State Government under sub-section (1) shall be final.

Communica-
tion of
decision of
Government.

8. (1) The decision of the State Government of granting or refusing to grant any permission as applied for under section 3 shall be communicated with reasons to the applicant before the [30th April], 1st May of the academic year ; and the same shall be displayed on the State Government Website.

(2) On establishing a new school or up-gradation of a school from the academic year for which the permission is granted, the management shall inform the concerned District Education Officer about the same within one month from the commencement of the academic year.

Disciplinary
action.

9. The work of scrutiny of applications received under section 3, submission of report of inspection and official duties assigned to the officers under this Act if found to be inaccurate or false, or there is any wilful or intentional delay or negligence in discharge of such official duties, it shall amount to dereliction of official duties and make such officer liable for appropriate disciplinary action under the Maharashtra Civil Services (Discipline and Appeal) Rules, 1979 or any other relevant disciplinary rules applicable to such officer [within the meaning of the provisions of sub-section (2) of section 10 of the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 and the provisions of the said sub-sections (2) and (3) of section 10 of the said Act shall apply in such case].

[Mah.
XXI
of
2006.]

Permission
for
academic
year.

10. [(1)] Permission to establish or up-grade a school granted under the provisions of this Act shall be for the academic year for which it is granted and on the failure of the management to start a school within eighteen months, the permission so granted shall stand cancelled [and withdrawn].

[(2) The permission granted under the provisions of this Act shall be liable for withdrawal by the State Government for violation of the provisions of this Act.

(3) Nothing in sub-section (1) or (2) shall apply to the schools established or recognized under the provisions of the Right of Children to Free and Compulsory Education Act, 2009.]

[35
of
2009.]

Up-
gradation
of existing
schools.

11. (1) Any registered trust or a registered society or [a registered company] a local authority running an [unaided English medium] existing school [including secondary and higher secondary school and imparting education on the date of commencement of this Act,] may, at its option apply for up-gradation of the school on self-financed basis under this Act and shall [be] abide by the orders or directions issued by the State Government in this regard.

(2) The Director or an officer nominated by the Director may, [after giving a notice of fifteen days to the secretary or manager, by whatever designation called, of the management of a school,] during working hours enter and inspect such school as and when required and forward the inspection report to the State Government.

12. (1) Save as otherwise provided in this Act, no school established or up-graded under this Act shall be closed down or discontinued, unless a notice of not less than eighteen months indicating the intention of the management of the school to do so, has been given by the secretary or manager or any person who is managing the affairs of the school, by whatever designation called, to the concerned Director and the State Government. On receipt of such notice, the Director may, if in his descretion he so desires, give the secretary, manager or the person who is managing the affairs of the school, as the case may be, an opportunity of being heard in person. Thereafter, if the Director is of the opinion that the closing down or discontinuation of school is justified, he shall report to the State Government for taking appropriate action to accommodate affected students. The Government shall take appropriate actions to accommodate such affected students to other available neighbourhood schools.

No school under this Act to be closed down.

[35 of 2009.] [Provided that, nothing in this sub-section shall apply to the schools established or recognized under the provisions of the Right of Children to Free and Compulsory Education Act, 2009.]

(2) If any such secretary, manager or person who is managing the affairs of the school fails to give notice as required under sub-section (1), he shall, on conviction, be punished with fine which shall not be less than five lakh rupees but which may extend to ten lakh rupees.

13. (1) Without prejudice to the provisions of [sub-section (1) of] section 10, the State Government may, by order, withdraw the permission, if any, granted, on following reasons, namely :—

Withdrawal of permission.

(a) [failure to comply with] violation of any of the provisions of this Act or rules made thereunder or failure to comply with any directions issued under this Act or the norms or standards or terms and conditions, if any, stipulated by the State Government, from time to time ;

(b) engaged in activities prejudicial to the interests of the [State] student [or promoting feeling of disloyalty or hatred] ; or

(c) poor academic performance.

[35 of 2009.] [Provided that, nothing in this section shall apply to the schools established or recognized under the provisions of the Right of Children to Free and Compulsory Education Act, 2009.]

(2) No order for withdrawal of permission under sub-section (1) shall be passed, unless a reasonable opportunity of being heard is given to such trust or society or local authority [company].

- Provisions of Act to apply to school seeking affiliation to any Board or institution in the State, outside State or outside India. **14. (1)** Any registered trust or a registered society or [a registered company] a local authority intending to establish or run a school which it proposes to have it affiliated to any Board or any Institution in the State, outside the State or outside India shall be bound to comply with the requirements for establishing such school in the State in addition to any other requirements of any such Board or Institution in the State, outside the State or outside India and any application for permission to establish or run such school made by such trust, society [or company] or local authority in that behalf shall be processed in accordance with the provisions of this Act.
- (2) No such school shall be established without obtaining the permission under this Act, and merely because an application is made in that behalf it shall not be deemed that a permission is granted for establishing such school in this State.
- (3) The registered trust or registered society or local authority [registered company], as the case may be, shall ensure that the school is run as per the provisions of this Act or the rules made thereunder, and the specified norms and standards and shall be committed to provide quality education to the children.
- Power to issue directions to registered trust or registered society or [registered company] local authority. **15.** The State Government may issue to any registered trust or registered society or [registered company] local authority to which permission is granted under this Act, such general or special directions, consistent with the provisions of this Act and the rules made thereunder, as in its opinion are necessary or expedient, for carrying out the purposes of this Act or for giving effect to any of the provisions contained therein or in any rules or orders made thereunder and the management of the educational institution shall comply with every such direction.
- Power to amend Schedules. **16. (1)** The State Government may, from time to time, by notification in the *Official Gazette*, modify, add to or delete any entry, from any of the Schedule and may, for that purpose, suitably amend the Schedule, by the said notification, and thereupon the entry in the Schedule shall stand amended accordingly.
- (2) Every notification issued under sub-section (1) shall be laid, as soon as may be, after it is issued, before each House of the State Legislature.
- Finality of orders. **17.** Save as otherwise expressly provided in this Act, every decision taken, order passed or notice, directions issued by the State Government or the concerned Director shall be final.
- Protection of action taken in good faith. **18.** No suit, prosecution or other legal proceeding shall lie against any officer of the State Government for anything which is done in good faith or intended to be done by any such officer under this Act or any rules or orders made thereunder.

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- 19.** Every officer or servant acting under the provisions of this Act or the rules shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.
- Officers, etc., to be public servants.
- 20.** The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any law for the time being in force in relation to, and applicable to, a management of a school established or up-graded under this Act.
- Act shall be in addition to existing laws.
- 21.** The State Government may, by notification in the *Official Gazette*, delegate all or any of its powers under this Act, except the powers under sections 6, 7, sub-section (1) of section 16, this section and section 22, the powers of the Director and District Education Officer, to any of its or their subordinate officers subject to such conditions and to such control as may be specified in the notification; and it may, in the like manner, withdraw any powers so delegated.
- Delegation of powers.
- 22.** (1) The State Government may, by notification in the *Official Gazette*, and subject to the condition of previous publication, make rules for carrying out all or any of the purposes of this Act.
- Power to make rules.
- (2) Every rule made under this Act shall be laid, as soon as may be, after it is made, before each House of the State Legislature, while it is in session for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, and notify their decision to that effect in the *Official Gazette*, the rule shall from the date of publication of such decision in the *Official Gazette*, have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.
- 23.** (1) If any difficulty arises in giving effect to any of the provisions of this Act, the State Government may, as occasion arises, by an order, published in the *Official Gazette*, do anything, not inconsistent with the provisions of this Act, which appears to it to be necessary or expedient for the purposes of removing the difficulty :
- Power to remove difficulties.
- Provided that, no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.
- (2) Every order made under sub-section (1) shall be laid, as soon as may be, after it is made, before each House of the State Legislature.

महाराष्ट्र शासन राजपत्र, भाग पाच-अ,
गुरुवार-बुधवार, मार्च २७-एप्रिल २, २०१४/चैत्र ६-१२, शके १९३६

SCHEDULE A

(See section 3)

FORM OF APPLICATION

- (1) Name of the Applicant -A Registered Trust or Registered Society or [Registered Company] a local authority:
- (2) Application for opening of new school : Pre-primary or Primary or Upper-primary or Secondary or Higher Secondary either separately or in combination with one or more of them:
- (3) The name of the school :
- (4) Full address of the –
(a) Applicant :
(b) Office of the Management :
- (5) Up-gradation of existing school : Primary or Upper-primary or Secondary or Higher Secondary (give DISE or SEMIS number of existing school) :
- (6) Medium of Instruction for proposed new school or up-gradation of existing school:
- (7) Details about existing affiliation or proposed affiliation to State Board or CBSE or ICSE or IGCSE or IB or CIE or any other Board or Institute, by whatever name called :
- (8) Place, taluka, district where the school is or will be located :
- (9) [Registration details,] Copy of certificate of registration of trust or society or details of local authority [company] :
- (10) (a) Copy of Trust Deed or Scheme [Memorandum of Association, Articles of Association]:
(b) Details of the trustees, members of the managing committee [or Board of Directors] and their addresses :
- (11) Land details—
(a) Registered Land in the name of the mangagement:
(b) Registered Lease Deed of thirty years or more in favour of the trust, society or local authority [company]:
(c) Board or Institute or Council to which school wishes to seek affiliation:

- (12) Area of land available —
(a) Minimum half acre in Mumbai and Mumbai suburban area :
(b) One acre in city area :
(c) Two acres in rural area :
- (13) Construction on the land for which the documents are submitted (details about the construction)—
(a) Total area in square metre :
(b) Construction area in square metre :
(c) Area available in classroom per child (per child approximately one square metre) :
Total construction details—
(i) Number of Classrooms—(classroom size eight metres x six metres):
(ii) Staff room :
(iii) Principal room :
(iv) Office room :
(v) Library [(fourteen metres x eighteen metres) (minimum two thousand books) (ratio of five books per child will be applicable, if more than four hundred students in school)]:
(vi) Laboratory—[(nine metres x six metres) (separate laboratory for physics, chemistry and biology)]:
(vii) Activity room:
(viii) Computer room (minimum ten computers):
(ix) Toilets (lavatory [and urinals] for boys and girls separately) :
(x) Drinking water facility :
(xi) Equipped with necessary furniture :
(xii) Playground :
- (14) Transport facility for children (optional) :
(15) Residential facility for children (optional) :
(16) Staff quarters (optional) :
(17) Extra facilities (provided by the school), details:
(18) Bank details—
(a) Current savings, fixed deposit, bonds :
(b) Balance sheet or certified audit report:
(19) Details about the fees which shall be charged, estimated income and expenditure details :
(20) Staff norms—adequate qualified staff according to norms :

Dated :

Signature.

महाराष्ट्र शासन राजपत्र, भाग पाच-अ,
गुरुवार-बुधवार, मार्च २७-एप्रिल २, २०१४/चैत्र ६-१२, शके १९३६

SCHEDULE B

(See section 3)

DOCUMENTS TO ACCOMPANY THE APPLICATION

- (1) Copy of Certificate of Registration.
- (2) Copy of trust deed, scheme, [Memorandum of Association, Articles of Association].
- (3) Documents related to land details.
- (4) Documents related with construction details-plan, commencement certificate, completion certificate, occupation certificate.
- (5) Photos related with infrastructure norms as required under the provisions of the Right of Children to Free and Compulsory Education Act, 2009.
- (6) Documents related with bank Accounts.
- (7) Audit report.
- (8) Balance sheet.

SCHEDULE C

(See section 4(1))

[(a) for establishing a new pre-primary or primary or upper-primary or secondary or higher secondary school, as the case may be.	Rupes three lakh.
(b) for establishing a new school from primary level to higher secondary.	Rupees ten lakh.
(c) for up-gradation of school to primary, upper-primary, secondary or higher secondary school, as the case may be.	Rupees three lakh (for each up-gradation).]
<u>(a) for establishing a new primary or pre-primary attached to primary or upper-primary or secondary or higher secondary school, as the case may be,—</u>	
<u>(i) in village panchayat area</u>	<u>Rupees minimum two lakh.</u>
<u>(ii) in Municipal Council, Nagar Panchayat or Industrial township area</u>	<u>Rupees minimum three lakh.</u>
<u>(iii) in Municipal Corporation area</u>	<u>Rupees minimum five lakh.</u>
<u>(iv) in Mumbai and Mumbai suburban area</u>	<u>Rupees minimum seven lakh;</u>
<u>(b) for establishing a new school from primary level to higher secondary,—</u>	
<u>(i) in village panchayat area</u>	<u>Rupees minimum five lakh.</u>
<u>(ii) in Municipal Council, Nagar Panchayat or Industrial township area</u>	<u>Rupees minimum ten lakh.</u>
<u>(iii) in Municipal Corporation area</u>	<u>Rupees minimum fifteen lakh.</u>
<u>(iv) in Mumbai and Mumbai suburban area</u>	<u>Rupees minimum twenty lakh;</u>
<u>(c) for up-gradation of school to upper-primary, secondary or higher secondary school, as the case may be,—</u>	
<u>(i) in village panchayat area</u>	<u>Rupees minimum two lakh (for each up-gradation).</u>
<u>(ii) in Municipal Council, Nagar Panchayat or Industrial township area</u>	<u>Rupees minimum three lakh (for each up-gradation).</u>
<u>(iii) in Municipal Corporation area</u>	<u>Rupees minimum five lakh (for each up-gradation).</u>
<u>(iv) in Mumbai and Mumbai suburban area</u>	<u>Rupees minimum seven lakh (for each up-gradation).</u>

Vidhan Bhavan :
Nagpur,
Dated 12th December 2012.

Dr. ANANT KALSE,
Principal Secretary,
Maharashtra Legislative Council.